



National Transportation Safety Board

Washington, D.C. 20594

Office of Marine Safety

**THE FOLLOWING DOCUMENT IS A SUMMARY OF THE UNITED STATES
DEPARTMENT OF JUSTICE DEPOSITION OF MR. KONGXIANG HU, TAKEN FROM
NOVEMBER 20, 2008, TO NOVEMBER 25, 2008, PURSUANT TO RULE 15,
FEDERAL RULES OF CRIMINAL PROCEDURE.**

**FOR PROCEDURAL AND EVIDENTIARY REASONS, TO INCLUDE PROTECTING
THE INTEGRITY OF THE CRIMINAL PROSECUTION, THE JUDICIAL PROCESS,
AND THE RIGHTS OF THE INDIVIDUAL DEFENDANTS AND MATERIAL
WITNESSES, THE TRANSCRIPT OF THE DEPOSITION WILL NOT BE
REPRODUCED IN THE NTSB's PUBLIC DOCKET UNTIL A DETERMINATION IS
MADE BY THE OFFICE OF GENERAL COUNSEL THAT ALL CRIMINAL
LITIGATION RELATED TO THIS MATTER HAS CONCLUDED, OR IN THE
ALTERNATIVE, THE PARTIES TO THOSE PROCEEDINGS HAVE CONSENTED TO
PUBLIC RELEASE.**

Date: November 20, 2008

Place: San Francisco

SUMMARY OF RELEVANT INFORMATION

- Kongxiang Hu's nationality is Chinese
- Serving on the M/V *Cosco Busan* as Chief Officer on November 7, 2007
- Responsibilities included cargo operations, navigation, management and disciplinary roles
- Chief Officer's (C/O) position is subordinate to both Master and Chief Engineer, with Master responsible for both Engine Department and Deck Department
- C/O responsible for Deck Department
- Chief Engineer responsible for Engine Department
- Got on board vessel October 24, 2007 in Pusan Korea
- Employer was Fleet Management Limited (FML)
- Never previously served with FML or served on board vessel
- Other than Third Officer, all crewmembers had never previously worked with FML, or served on board vessel
- Third Officer had previously worked with FML, but not on M/V *Cosco Busan*
- Vessel departed Pusan, Korea on October 25, 2007, in route to Long Beach, California
- After Long Beach, vessel called upon the Port of Oakland and arrived on November 6, 2007
- Only had two voyages on board vessel at that time
- Doesn't remember exact time ship departed Port of Oakland on November 7, 2007, but recalled vessel hit bridge at 0830
- Was eating in the mess room at time of impact
- Was on bow briefly when ship first departed berth, but departed bow and went to look at the pilot ladder, then to eat meal in mess room
- Did perform some lookout functions while on the bow
- Visibility was very poor due to fog and distance of sight varied at times
- Was initially not aware of vessel's allision, only felt slight vibration
- Heard "call out" on ship's internal communication system, obtained "walkie – talkie", and proceeded to deck
- Looked down starboard side first, didn't see any damage
- Proceeded to port side where he visually saw damage and oil being discharged at a rate described as, "speed wasn't too fast"
- Estimated 8 to 9 minutes, but no more than 10 minutes, transpired between time he heard "call out" and time he observed discharge of oil from hole in hull
- Saw oil in the water and oil being discharged from the hole in the fuel oil tank
- On his own accord, proceeded to the Ballast Water Control room and began transferring ballast water in hopes of adjusting trim of vessel to reduce volume of oil lost
- Felt actions affected trim of the vessel
- Proceeded from Ballast Water Control room to bow and assisted with anchoring vessel

- Learned later that day from persons ashore, or “from the U.S.”, that an estimated 200 tons of oil was released
- He did not perform any calculations of oil loss himself, as it is the Engine Department’s responsibility
- He did hear from the vessel’s Chief Engineer that 200 tons of oil was discharged
- He personally measured the dimensions of the damage area the afternoon of the incident around 5:00 or 6:00 pm
- When ship arrived in Oakland, his primary responsibility was commencement of cargo operations
- On the evening of November 6, through the night and into the morning of November 7, he never went to his stateroom
- Between midnight, November 7, until 05:30 am, monitored cargo operations, generated stowage plan, adjusted ballast water to ensure vessel stability, and “slept in a chair”
- Longshoremen loaded vessel in accordance with stowage plan, but did not get containers properly “lashed” or secured prior to the work crew’s departure from vessel
- This was brought to his attention by the ship’s Bosun and he immediately got with foreman of the longshoremen and requested the matter be corrected and ask that the longshoremen return to the vessel
- This conversation took place on board in the Deck department office, but foreman was unable to locate longshoremen
- Made master aware of this situation around 6:00 am on November 7, 2007, and a decision was made that the vessel’s crew would secure the cargo
- There was no discussion initiated by the master or himself about delaying the vessel’s departure from berth until the containers were secured because the pilot was on board and vessel was “ready to depart”
- Estimated time for securing the cargo between 30 minutes to 1 hour (*Note: Transcript does not indicate number, or estimated number of containers lacking proper lashings*)
- Doesn’t know if decision to depart port with containers unsecured would be consistent with any of FML’s Safety Management System (SMS) procedures or not
- After this conversation with the master about the containers not being properly lashed, he departed for the bow around 6:00 or 6:15 am to prepare for departure, but doesn’t recall the time exactly
- The Bosun and two Ordinary Seamen (OS) were on the bow with him
- Didn’t attend any briefings to discuss a voyage plan, or review a voyage plan, or discuss any navigation matters with the master or anyone else on that morning, prior to departure from Oakland
- Before the ship departed the berth, he commented to the Bosun that “with this kind of fog, if it was in a Chinese port, the ship would not have left the port”
- Felt the vessel should not have left that day because of the fog, but did not express his concerns with the master or the pilot
- Has listened to the audio recording capture by the vessel’s VDR on the morning of the incident, but stated he wasn’t on the navigational bridge at the time
- Used a “walkie – talkie” to communicate with the fellow crew on the navigation

bridge that morning

- Stated a ship passed in the channel, by the moored *Cosco Busan* around 07:52 am and he could not see it clearly
- After the *Cosco Busan* departed the berth, around 07:51 am, he remained on the bow to act as a lookout, and the Bosun went to attend the pilot ladder, along with the two OSs
- At 08:13, master called via radio to confirm who was on the bow
- He was still on the bow at that time and visibility had declined further
- Felt vessel speed was "too fast", but it was not his decision and he did not communicate with bridge regarding visibility or speed
- Bosun return to bow around 08:17 am and suggested that they rotate the lookout responsibility, so they could both have a meal before they began working on the containers that needed to be lashed down
- Commented to the Bosun that visibility was "not good, so pay attention" upon departing bow around 08:17 am
- He didn't inform the master he departed the bow and doesn't know if his departure at that time was inconsistent with FML's SMS procedure regarding the posting of a lookout during restricted visibility
- Walked down the port side of the vessel at that time in route the mess room and placed his "walkie – talkie" in the charging stand in the Deck office
- Did not hear the master attempting to contact him via "walkie – talkie" after the bridge strike, but did hear the master attempted to raise him over the vessel's internal communication system
- Was in mess room eating from 08:30 when and 08:38 time master attempted to raise him
- Described oil flow from hole in vessel hull as being like a "waterfall"

Date: November 21, 2008

Place: San Francisco

SUMMARY OF RELEVANT INFORMATION

- During the period he was on the bow, he recalled hearing vessel's fog signal, and was listening for fog signals of other vessels
- Did not hear fog signals from other vessels
- Confirmed it was a short period of time that both he and the Bosun where on the bow together after the vessel departed berth, estimated it was "1 – 2 minutes"
- Knew "berth to berth passage planning" was required
- Previously, passage planning was only from pilot station to pilot station
- Familiar with contents of ISM code
- Learned FML SMS required berth to berth passage planning several days after the incident when asked by Second Officer to sign a passage plan which conformed to FML's SMS in preparation for an internal audit
- Did not see any passage plan for the Oakland to Busan voyage prior to the allision on November 7, 2007
- Met with USCG personnel on the bridge of the vessel around 12:00 pm and

witnessed the USCG personnel review the passage plan and course recorder data

- Based upon personal experiences, feels vessel fixes should be taken as frequently as needed, given navigational conditions, and there is not a set interval
 - Discussed the position of the vessel and it not being on the "right course" with other crew members at that time, but didn't ask the Third Officer about why he didn't take additional fixes
 - Did not discuss the cause of the incident with the other crew members
 - "Third Officer and also the control crew" could understand "simple English when it comes to navigation"
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Date: November 24, 2008

Place: San Francisco

SUMMARY OF RELEVANT INFORMATION

- Holds a license as C/O from China and Hong Kong
- Previously worked at C/O on two other vessels
- Neither of these vessels where as large as the *Cosco Busan*, or had an electronic chart system similar to the system installed on the *Cosco Busan*
- Met the rest of the crew members in Beijing, then traveled with them to Busan, Korea
- When FML crew arrived on the vessel in the evening, an undetermined number of the off-going members were still onboard
- He met with the off-going C/O for about 1 ½ hours and discussed some equipment matters, but not everything he would have liked to discuss
- The off-going C/O did not leave a written "turnover report" which was "unusual" in his opinion
- Started working immediately upon arrival to the ship
- Doesn't know what type of turnover was experience by the Third Officer and the Second Officer
- Would have preferred to have more opportunity to discuss matters with the off-going C/O and obtain a written report from him to become more familiar with the vessel
- Did not receive any training from FML on the vessel's electronic chart system, radar, Master's Standing Orders, Bridge Procedures Manual, Passage Planning, or SMS, prior to departure from Busan, Korea on October 25, 2007
- Did not receive any training from FML on the vessel's electronic chart system, radar, Master's Standing Orders, Bridge Procedures Manual, Bridge Team Management, Passage Planning, or SMS, prior to the vessel striking the bridge on November 7, 2007
- Signed an SMS equipment familiarization form, "Fleet Management Limited. Checklist for Officer Familiarization", stating proper training had been performed, but doesn't remember exactly when he signed this form
- Knew basic operation of equipment without instruction

- Stood the 0400 to 0800, and 1600 to 2000 navigation watch when vessel was at sea
- Recalled FML's SMS, "Shipboard Management Manual" as being on the navigation bridge of the vessel, but did not receive any training in its content prior to the incident
- Recalled FML's SMS, "Bridge Procedures Manual" as being on the navigation bridge of the vessel, but did not receive any training in its content prior to the incident
- Did read some portions of the "Bridge Procedures Manual" and would be able to look things up in it, but there were "six or seven books like this" and "how would you have time to read it...too much"
- Recalled reading the "Master's Standing Orders" and signing same document after ship departed Busan, Korea on October 25, 2007, but doesn't recall exact date
- Made routine entries and signed FML's "Deck Logbook" and feels document accurately captured drills and training performed by crew regarding SOPEP, SMPEP, firefighting, life-saving and ISPS
- Participated in an internal ISM audit after the incident with FML representative and was briefed on findings and corrective measures
- Present at the external ISM audit after the incident in December performed by the vessel's classification society, Germanischer Lloyd, but did not see the audit findings
- When he left the Bosun on the bow and headed down to the mess room to have his meal, he was unaware of the ship position in the waterway, could not see any buoys
- Didn't hear the fog horn on Yerba Buena Island or fog horn on "Echo" tower of the San Francisco – Oakland Bay Bridge
- Familiar with the buoy system in America and noted that on the "preferred channel, buoy to port"
- Does supervise the Second and Third Officers, but reviewing their passage planning was not included in that responsibility
- Can listen to English, but speaking and reading English is more difficult

Date: November 25, 2008

Place: San Francisco

SUMMARY OF RELEVANT INFORMATION

- Lashing of the containers was Bosun's responsibility, not the C/O's and both individuals understood that
- "Three levels" of containers needed proper lashing and the C/O had hoped to get those lashings in place prior the vessel entering "open sea"
- When C/O was on the bow, or any other time, Master did not ask him to be on the lookout for any buoys or either the Echo or Delta towers on the San Francisco – Oakland Bay Bridge
- Master never stated he wanted both Bosun and C/O on the bow as lookouts

- Master never complained to the C/O about the Port Captain, only the Superintendent Engineer
- On November 7, 2007, Port Captain departed ship about "30 to 40" minutes after pilot boarded
- Did review passage plan for voyage from Busan, Korea to Long Beach, California, sometime at sea between the two ports, but did not recall whether it was berth to berth, or pilot station to pilot station
- Did review a pilot station to pilot station passage plan for voyage from Long Beach, California, to San Francisco, California, sometime at sea between the two ports, but did not review it prior to departure, only when he went on duty and had to use it
- Aware vessel's radar was repaired, unsure of type of repair, but repair did take place in Long Beach, California
- Aware of problem with Doppler Speed Log, but doesn't recall when he became aware of the problem since it was the Second Officers job to maintain equipment
- Is knowledgeable in using vessel's Closest Point of Approach (CPA) function and setting system to alarm, but did not use it during his time on board
- Never discussed symbols on the vessel's Electronic Chart Display with any other crew members before or after the allision
- During cargo operations in Oakland on November 6, and into the morning of November 7, 2007, C/O "rested" for "three to four hours" overall in "chairs" in both the vessel's Deck Office and Ballast Control Room
- Master's "Standing Orders" requires the Officer Of the Watch (OOW) to perform fixes every five minutes while in pilotage waters
- Did not attend closing meeting of internal audit performed by FML representative and was not interviewed by same representative regarding anything related to the incident
- Master and pilot must work together in the interest of safety
- Born August 13, 1972, 36 years of age
- Graduated from Dongzhi County #2 High School and then graduated from Shanghai Maritime University
- Began internship in 1977 as cadet after graduation from Shanghai Maritime University to obtain license from China, started as Ordinary Seaman (O/S) and worked his way up through ranks
- Returned to Shanghai Maritime University to prepare for position of C/O and after finishing formal training, sat for and passed the "national test given by the government" to become C/O and was issued license in 2005
- Holds appropriate STCW certificates for rank and position on board
- Stated is was "very common" in the maritime industry to sail with other seaman you have never worked with before
- Didn't know about the other crewmembers, but believed Bosun was "competent" and had "confidence" in the Bosun's ability
- Many portions of the SMS would have nothing to do with the responsibility of the C/O
- Looked at portions of the SMS that applied to his position, but did not recall if that review took place before the vessel arrived in Oakland, California
- Used the electronic file to review FML's SMS, not the paper or printed version

- Doesn't recall exact sections of the SMS read, but did not discover anything in the material that was inconsistent with expectations of responsibility as a C/O, based upon prior training and experience
- Did learn about ISM Code at the maritime academy
- Didn't stand navigational watch while entering or departing any ports, only stood watch at sea
- While navigating as sea and on watch, used paper charts prepared by the Second Officer and the vessel's GPS to fix the position with pencil, so that positions could be erased and chart could be used more than once
- Did use written passage plan from Busan, Korea to Long Beach, California, as well as paper chart, and did not notice any discrepancies between the two
- Used vessels electronic chart display system on same voyage and learned how to use it from other navigation officers
- There are two types of electronic charts, a "Whitaker" and a "Russell", but didn't recall what version the *Cosco Busan* had
- When on navigational duty at sea, used the electronic chart for fixes and "we set the location on it", at the end of the 4 hour watch, "we set the location" on the paper chart
- Used same navigational tools from Long Beach, California to Oakland, California
- Previously served on the vessels, *Irfon*, *Daio Excelsior*, *Dong Ji*, *Great Intelligent*, *Cape Brett*, *Ned Lloyd Inca*, *Honest Rays*, and then the *Cosco Busan*
- On November 6, 2007, worked from 0400 to 0800, and from 1300 to 2300, for a total of 14 hours, and from 0001 to 0400 that date, he slept, and from 0800 to 1300, and 2300 to 2400, he rested, but did not sleep
- Had a total of 10 hours of rest on November 6, and 3 hours of rest on November 7, before the accident, and "rest time is not sleeping time"
- Longshoremen put the "twist" locks in bottom, four corner of every container and when each container is placed on a hatch or other container, it provide some degree of securing in place, but lashings are still needed
- No containers fell off the *Cosco Busan* after it struck the Delta tower and it is more common to load empty containers on hatch covers, rather than down below
- "Head" rope was let go at 0751 which was the last line to be pulled aboard before getting underway
- His sailing contract with FML was for 8 months time, "plus or minus 2" months

END OF SUMMARY

Larry D. Bowling